



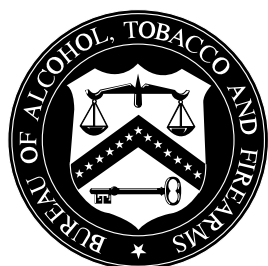
# Following the Gun:

Enforcing Federal Laws  
Against Firearms Traffickers



**June 2000**

**Department of the Treasury  
Bureau of Alcohol, Tobacco & Firearms**



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## FOREWORD BY THE DIRECTOR

Virtually every crime gun in the United States starts off as a legal firearm. Unlike narcotics or other contraband, the criminals' supply of guns does not begin in clandestine factories or with illegal smuggling. Crime guns, at least initially, start out in the legal market, identified by a serial number and required documentation. This means that virtually every crime gun leaves some paper trail. Historically, the Bureau of Alcohol, Tobacco and Firearms (ATF) has pursued cases against both armed offenders and firearms traffickers. Until recently, however, we did not have the tools to develop a systematic approach to understanding and addressing the sources of firearms used in crime. In 1996, we intensified our efforts to address the illegal supply of crime guns by using the crime gun recovered by law enforcement officials to identify and target the illegal suppliers. To assess this strategy, we have conducted a review of our trafficking investigations and their disposition by prosecutors and courts.

Studies such as this one are essential to ATF. The last decade has brought our investigators and inspectors an enormous increase in investigative information. The National Tracing Center (NTC) now has over 1,000,000 traces of firearms recovered by law enforcement officials in our firearms trafficking information system. The National Integrated Ballistics Information Network (NIBIN), operated by ATF with the Federal Bureau of Investigation (FBI), now contains 500,000 ballistics images. The National Instant Check System (NICS), launched by the FBI and ATF in 1998, has resulted in ATF receiving over 130,000 reports of prohibited persons attempting to buy firearms from FFLs. Our files contain facts from thousands of investigations and debriefings of arrested persons in possession of firearms used in crime.

This huge advance in investigative information and in tools to access it enables ATF and our State and local partners to identify many more criminals individually, and to analyze and respond to specific local crime patterns. With greater knowledge of the gun criminal, we can target our resources more effectively and better explain our cases to the communities we serve. At the same time, this wealth of criminal investigative information brings with it the management challenges of creating the best investigative and strategic uses, sharing information with other Federal, State, and local authorities, protecting citizen privacy, and fully informing Congress and the public.

The case analysis presented here will help us develop the most effective possible enforcement strategies. This report demonstrates the effectiveness of State and local law enforcement agencies and prosecutors joining ATF in "following the crime gun" to the gun's illegal supplier, and targeting that supplier and others in the chain of illegal transfers. It may be the gun of the drug dealer, the violent gang member, the repeat felon, parolee or probationer, the domestic violence offender, the juvenile, or any other person prohibited from possessing a firearm. Gun traffickers are often criminals in other respects, and trafficking investigations provide another means to prevent them from harming the community.

This report is strong evidence of the support ATF receives from the U.S. Attorneys and other prosecuting attorneys on a daily basis. Our review would not have been possible without the assistance from valuable academic partners and the Bureau of Justice Statistics, as well as support from the Department of the Treasury. We also want to thank the many State and local law enforcement agencies who directly participated in the vast majority of investigations described in this report. Every member of the study team joins me in expressing our gratitude.



Bradley A. Buckles

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# EXECUTIVE SUMMARY

Many criminals obtain their guns from the illegal market supplied by a variety of sources: unlicensed sellers who buy guns with the purpose of reselling them; fences; corrupt Federal firearms licensees (FFLs); and straw purchasers who buy guns for other unlicensed sellers, criminal users, and juveniles. It is the responsibility of the Bureau of Alcohol, Tobacco and Firearms (ATF), often working together with State and local law enforcement agencies, to investigate this criminal trafficking in firearms, arrest the perpetrators, and refer them to U.S. Attorneys for prosecution.

To report on the problem and the Federal enforcement response to it, ATF documented and analyzed the criminal investigations involving firearms traffickers that it initiated from July 1996 through December 1998, from commencement of the investigation to sentencing by a court. This review builds on an earlier examination of the illegal acquisition of firearms by youth and juveniles, prepared in response to a request by Congress.<sup>1</sup> The information for both reports derived from surveys of the ATF special agents responsible for the investigations.<sup>2</sup>

The analysis documents an aggressive, productive effort that led to the prosecution, conviction, and sentencing of hundreds of firearms traffickers during this period. It also suggests that this effort could be rendered still more effective with continued improvements in investigative techniques and enforcement tools.

## The investigations and the trafficked firearms

*Trafficking and armed offender investigations.* ATF initiated 1,530 firearms trafficking investigations during the period July 1996 through December 1998, which comprised only a portion of ATF's firearms investigations. Most ATF firearms investigations were initiated specifically to target offenders who committed acts of armed violence or were considered potentially violent — armed career criminals, armed narcotics traffickers, and felons in possession of firearms — as part of locally designed strategic efforts to reduce drug trafficking and violent gang activity, and violent crime generally. ATF trafficking investigations complement these enforcement strategies by reducing the illegal availability of firearms to such armed violent offenders as well as to juveniles, and by identifying and arresting other violent criminals through investigations of firearms trafficking activity.

*Removing guns from the streets.* The targets of the ATF trafficking investigations during this period diverted a total of 84,128 firearms from legal to illegal commerce. ATF estimates that agents seized a quarter of these firearms in connection with the investigations themselves, removing them from the illegal market. The remainder of the trafficked firearms were documented during the criminal investigation or later recovered in crimes. Trafficked firearms may continue to be recovered by law enforcement officials and traced long after traffickers are arrested and incarcerated.

*How ATF initiates trafficking investigations.* Most of the trafficking investigations were initiated based on traditional case methods, such as referrals from other agencies and information provided by confidential informants. One in every five investigations, however, was triggered by information provided by Federal firearms licensees through tips or mandatory reporting to ATF concerning lost or stolen firearms.

<sup>1</sup> *Performance Report for the Senate and House Committee on Appropriations, Youth Crime Gun Interdiction Initiative*, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, February 1999.

<sup>2</sup> The survey was designed by Dr. Anthony A. Braga, of the John F. Kennedy School of Government, Harvard University, who also prepared the tables in this report, in consultation with ATF. For a full description of the methodology, see Appendix B.

*Role of firearms tracing.* Almost 30 percent of the investigations (448 of 1,530) were initiated through the innovative investigative methods of information analysis – analysis of firearms trace data, multiple firearms sales records, or both. After initiation of the investigations, tracing was used as an investigative tool to gain information on recovered crime guns in 60 percent of the investigations (918 of 1,530). These findings show that crime gun trace analysis and on-line Project LEAD, the National Tracing Center's firearms trafficking information system, are being widely used to increase ATF's productivity in the development of firearms trafficking investigations. Almost 60 percent of the investigations involved secondhand guns, which are very difficult to trace because unlicensed sellers are not required to keep any transfer records, and there is no effective way to track a gun beyond the first retail sale. Investigative use of firearms and ballistics trace information by Federal, State, and local law enforcement to identify traffickers and armed offenders is a developing capability that should be strengthened.

## **Traffickers and armed criminals**

*Traffickers supply criminals and juveniles with guns.* Traffickers move guns onto the streets and into the hands of criminals. Over half of the trafficking investigations involved firearms known to have been subsequently involved in additional criminal investigations, including investigations of homicide and robbery, assault, felon in possession of firearms, and illegal gun possession. Juveniles were involved in about 14 percent of the investigations (209) as possessors, thieves and robbers, and traffickers. The number of crime guns linked to particular traffickers by ATF in investigations or through firearms and ballistics tracing is likely to understate significantly the role of trafficked firearms in violent crime. Investigative resources for trafficking cases are limited, and firearms and ballistics tracing are not yet fully developed and available to law enforcement agencies.

*Trafficking investigations lead to armed violent felons.* When law enforcement follows the gun used by the criminal to its illegal supplier, the investigation often leads to another violent criminal. Convicted felons play a significant role in firearms trafficking. About 23 percent of the investigations included violations involving convicted felons buying, selling, or possessing firearms. A quarter (669) of the traffickers identified in the investigations were convicted felons. About 45 percent of the trafficking investigations involved convicted felons in various roles, including trafficking and receiving trafficked firearms.

## **Traffickers and trafficking channels**

*Different types of traffickers and trafficking channels.* Firearms traffickers are using a variety of channels to divert firearms, and investigations usually involve multiple trafficking channels, such as a corrupt FFL and a straw purchaser, or theft and unlicensed dealing.

*Corrupt FFLs as major traffickers.* Although FFLs were involved in under 10 percent of the trafficking investigations, they were associated with the largest number of diverted firearms – over 40,000 guns, nearly half of the total number of trafficked firearms documented during the two-year period. The mean number of trafficked guns involved in any case in which an FFL figured was over 350. When an FFL was acting as the sole trafficker in the investigation, or working with an unlicensed dealer, the mean number of guns per investigation rose to over 550. Clearly, FFLs' access to large numbers of firearms makes them a particular threat to public safety when they fail to comply with the law. Investigations focused on retail gun stores, pawnshops, and residential FFLs. The 133 investigations of FFLs revealed a variety of violations, including failure to keep required records, transfers to prohibited persons, offenses involving National Firearms Act weapons, making false entries in record books, and conducting illegal out-of-state transfers.



*Gun shows.* Gun shows were a major trafficking channel, involving the second highest number of trafficked guns per investigation (more than 130), and associated with approximately 26,000 illegally diverted firearms. The investigations involved both licensed and unlicensed sellers at gun shows.

*Straw purchasers.* Straw purchasing was the most common channel in trafficking investigations. Almost half of all the trafficking investigations involved straw purchasers. Therefore, although the average number of firearms trafficked per straw purchase investigation was relatively small, 37 firearms, there were nearly 26,000 firearms associated with these investigations.

*Unlicensed sellers.* Unlicensed sellers were a focus of about a fifth of the trafficking investigations, and involved an average of about 75 guns per investigation and almost 23,000 guns. Unlicensed sellers range from individuals who knowingly sell guns to criminals from their personal collections to interstate gun runners buying guns to sell to gangs and drug organizations.

*Firearms theft.* Firearms theft is an important source of trafficked firearms. Firearms stolen from FFLs, residences, and common carriers were involved in over a quarter of the trafficking investigations. Investigations involving firearms stolen from residences and federally licensed firearms dealers were associated with over 9,000 trafficked firearms. There were a handful of investigations involving thefts of firearms from common carriers, but such thefts may involve a large number of firearms. ATF is proposing a regulation that would require FFLs to report guns missing in shipment.

## **Productive partnerships between ATF, U.S. Attorneys, and State and local authorities**

*Successful prosecutions.* Over 1,000 of ATF's trafficking investigations were referred to prosecutors. Prosecutors accepted 90 percent of ATF's trafficking case referrals, involving more than 1,700 defendants. At the time of the survey, over 60 percent of the defendants were fully adjudicated. Over 1,000 traffickers — 97 percent of those adjudicated — were found guilty and sentenced in Federal, State, and local courts. Over three-quarters received sentences of incarceration up to life in prison; most of the remainder received probation. Altogether, as a result of these investigations, 812 defendants were sentenced in Federal court to a cumulative 7,420 years in prison, with an average sentence of about nine years.

*State and local law enforcement role.* More than 33,000 offenders were convicted of felony firearms-related offenses in State and local courts in 1996.<sup>3</sup> State or local law enforcement agencies participated in 68 percent (1,037 of 1,530) of the ATF trafficking investigations. Although only about 3 percent of ATF's case referrals and about 10 percent of the defendants referred were to State and local prosecutors, about 70 percent of ATF's investigations involved intrastate trafficking and about 10 percent involved guns stolen from residences. This suggests that where there are applicable laws, State and local law enforcement play an important role in curbing the illegal market in firearms.

*Enforcement challenges.* Investigators and prosecutors face challenges building successful cases against firearms traffickers. Prosecutors accepted over 60 percent of trafficking cases referred by ATF that involved straw purchasers and dealing by unlicensed sellers, but in the majority of cases proceeded with other charges, not related on their face to firearms trafficking. Also notable is that although FFLs are associated with the largest volume of trafficked firearms, many FFL violations are misdemeanors rather than felonies, presenting a dilemma for prosecutors who

<sup>3</sup> Jodi M. Brown, Patrick A. Langan, and David J. Levin, *Felony Sentences in State Courts*, 1996. Bureau of Justice Statistics (1999).

understandably give priority to crimes with greater penalties. Similarly, sentencing guidelines do not provide for increased penalties for trafficking crimes involving truly large scale trafficking — more than 50 firearms. The most important conclusion to be drawn from this case review is that prosecutors are finding ways to prosecute criminal traffickers despite these issues. Law enforcement authorities, however, must in effect build a double case against many firearms traffickers, identifying non-trafficking conduct that can be the basis for a strong criminal case.

Gun traffickers play a critical and deadly role in the chain of violence. They are a principal source of firearms for criminals. Although some guns are bought legally and used in crime, the many thousands of guns that traffickers supply illegally, without a Brady background check or an FFL transfer record that enables tracing, are firearms that are likely to be associated with other crimes. While the success of the firearms trafficking enforcement effort is to be measured by a reduction in gun violence, it is clear that enforcing Federal laws against firearms traffickers has a deservedly high priority.

# 1. INTRODUCTION

When the Gun Control Act of 1968 (GCA) was enacted, Congress declared that its primary purpose was to “keep firearms out of the hands of those not legally entitled to possess them . . . and to assist law enforcement authorities in the States and their subdivisions in combating . . . crime in the United States.” Many criminals obtain their guns from the illegal market supplied by a variety of sources: unlicensed sellers who buy guns with the purpose of reselling them; fences; corrupt Federal firearms licensees (FFLs); and straw purchasers who buy guns for other unlicensed sellers, criminals, and juveniles.<sup>4</sup> It is the responsibility of the Bureau of Alcohol, Tobacco and Firearms (ATF), often working together with State and local law enforcement agencies, to investigate this criminal trafficking, arrest the perpetrators, and refer them to U.S. Attorneys for prosecution.

ATF has pursued cases against firearms traffickers throughout its history. Starting in 1996, through the Youth Crime Gun Interdiction Initiative and related enforcement and training programs, ATF increased its efforts to work with State and local law enforcement agencies to expand the tracing of guns recovered by police, and to make discovery of the source of the crime gun, and criminal prosecution of the illegal supplier of firearms, a routine aspect of the investigation and prosecution of armed criminals and juveniles.

This report documents ATF criminal investigations involving firearms traffickers that were initiated from July 1996 through December 1998. The report begins by explaining how the nation’s firearms laws prohibit illegal transfers of firearms. It then presents an analysis of more than 1,500 ATF firearms trafficking investigations as reported in a survey of ATF field agents. The report also analyzes the agents’ reports of the disposition of the cases — the violations referred by ATF, the charges filed and verdicts won by U.S. Attorneys and State and local prosecutors, and the sentences imposed by courts. Finally, the report discusses lessons learned from these investigations and conclusions about the further development of

an integrated firearms enforcement strategy against armed criminals and the illegal suppliers who fuel their gun violence.

During the period of review, trafficking investigations comprised only a portion of ATF’s firearms investigations. Most ATF firearms investigations specifically targeted violent offenders — armed career criminals, armed narcotics traffickers, and felons in possession of firearms — as part of locally designed strategic efforts to reduce drug trafficking and violent gang activity, and violent crime generally. The gun trafficker, however, also plays a critical role in the chain of violence. Whether a single straw purchaser buying a TEC-9 at a gun show for a high school student, a corrupt licensed dealer selling a silencer to a felon who fails a Brady check, or a gun runner funneling guns to an urban gang, these are violators who demand the full enforcement attention of ATF and our State and local partners. In addition to being traffickers, these violators are also often themselves violent offenders. ATF issues this report to assess and strengthen our efforts, to broaden public understanding, and to support other law enforcement authorities in their efforts to confront the illegal trafficker in guns.

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<sup>4</sup> Under current law, a “straw purchase” occurs when the actual buyer of a firearm uses another person, the “straw purchaser,” to execute the paperwork necessary to purchase a firearm from an FFL. The “straw purchaser” violates the GCA by making a false statement with respect to information required to be kept in the FFL’s records.